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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,117	01/12/2005	Mubarik Mahmood Chowdhry	261736US0PCT	6783
22850	7590	06/10/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
CHEUNG, WILLIAM K				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
06/10/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/521,117

Applicant(s)

CHOWDHRY ET AL.

Examiner

WILLIAM K. CHEUNG

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-27 and 31-37 is/are pending in the application.
- 4a) Of the above claim(s) 31-37 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-24 is/are allowed.
- 6) ☒ Claim(s) 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI-108)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

1. The request filed on January 22, 2009 for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 10/521,117 is acceptable and a RCE has been established. An action on the RCE follows.
2. In view of the amendment filed March 30, 2009, claims 1-13, 28-30 have been cancelled. Claims 14-27, 31-37 are pending. Claims 31-37 are drawn to non-elected subject matter. Claims 14-27 are examined with merit.
3. Applicant's affirmed election of claims 14-27 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Therefore, in view of lack of traversal to restriction requirement set forth from Response to Restriction Requirement, the restriction set forth by the examiner is deemed proper and is therefore made Final.
4. In view of the amendment filed March 30, 2009, the rejection of Claims 14-27 under 35 U.S.C. 112, first paragraph, is withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kristen et al. (WO0144325).

Claim 25. (Previously Presented) An aqueous dispersion of a polyolefin or copolymer of two or more olefins, prepared as set forth in claim 14.

Claim 26. (Previously Presented) An aqueous dispersion of a polyethylene or ethylene copolymer, prepared as set forth in claim 14.

Claim 27. (Previously Presented) The aqueous dispersion as claimed in claim 25, which is in the form of a miniemulsion.

Kristen et al. (abstract) disclose an olefin emulsion product that the substantially identical as claimed. Although there are minor differences in the catalyst system disclosed in Kristen et al. and as claimed, olefins are typically polymerized through the consumption of the double, the examiner has a reasonable basis that Kristen et al. inherently teach the polymer emulsion being claimed. Applicants must recognize that "[E]ven though product-by-process claims are limited by and defined by the process,

determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). Since claims 25-27 are not specific on the amount of monomeric content in the polyolefins, the rationale set forth for the instant rejection is adequate.

(57) Abstract: The invention relates to a method for the emulsion polymerisation of one or several olefins by reacting the latter with at least one complex compound of the general formula (Ia) or (Ib). In said formula, M represents a transition metal of groups 7 to 10 in the periodic table of elements, preferably Ni; in an aqueous dispersion and at least one radical R' to R' and optionally one radical R⁴ to Rⁿ contain a hydrophilic group X, selected from -SO₃⁻, -O-PO₃²⁻, N(HR¹)_n⁺, N(HR¹)_n⁺ or -C(CH₃)₂CH₂OH, whereby n represents a whole number between 1 and 15. An activator, for example olefin complexes of rhodium or nickel is used in the inventive method. The invention also relates to dispersions of polyolefins, for example polyethylene and ethylene copolymers in water and to the use of the inventive aqueous dispersions for applications in the paper industry, such as paper coating or surface sizing, paint coatings, raw materials for adhesives, moulded foams such as mattresses, textile and leather applications, coatings for the underside of carpets or pharmaceutical applications.

Allowances

7. Claims 14-24 are allowed.
8. The following is an examiner's statement of reasons for allowance:

As of the date of this office action, the examiner has not located or identified any reference that can be used singularly or in combination with another reference including the closest prior art of Bauers et al. [Macromolecules, 36,6711-6715(2003)] and Ostoj-Starzewski et al. (US 5,686,542) to render the present invention anticipated or obvious to one of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K. Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William K Cheung/
Primary Examiner, Art Unit 1796

William K. Cheung, Ph. D.
Primary Examiner
June 7, 2009

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